

AARON & PATERNOSTER, LTD.  
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**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEVADA**

In re:	)	Chapter 13
	)	BK-S-09-27460-LBR
<b>ROY BREWER AND</b>	)	
<b>WENDY SUNSHINE BREWER</b>	)	
	)	
Debtor(s).	)	DATE: 2/3/2010
	)	TIME: 10:30 a.m.

**OPPOSITION TO MOTION FOR RELIEF FROM AUTOMATIC STAY**

COME NOW, the Debtors, ROY BREWER AND WENDY SUNSHINE BREWER, by and through their attorneys, the law firm of AARON & PATERNOSTER LTD., and respectfully request this Court deny the Motion for Relief From Stay filed by BANK OF AMERICA, NATIONAL ASSOCIATION AS SUCCESSOR BY MERGER TO LASALLE NATIONAL ASSOCIATION, AS TRUSTEE FOR THE C-BASS MORTGAGE LOAN ASSET-BACKED CERTIFICATES, by and through their attorneys, GREGORY L. WILDE, ESQ. of the law firm of WILDE AND ASSOCIATES.

**POINTS AND AUTHORITIES**

11 U.S.C. §362 (d) (1) states that the Court may terminate, modify or condition stay  
"for cause, including the lack of adequate protection of an interest  
in property of such party in interest;---"

11 U.S.C. §362 (d) (2) the Court may terminate, modify or condition a stay  
"with respect to a stay of an act against property under subsection  
(a) of this section, if-

- (A) the debtor does not have an equity in such property  
AND
- (B) such property is not necessary to an effective  
reorganization

**STATEMENT OF FACTS**

1  
2 1. Debtors' property has a lien of approximately \$305,000.00 for a first mortgage on  
3 the property located at 6516 Quantum Lane, Las Vegas, Nevada 89130.

4 2. Debtors filed a Chapter 13 bankruptcy, Case No. 09-27460-LBR on or about  
5 September 18, 2009.

6 3. Debtors indicated in their Petition and Schedules that they intended to retain their  
7 residence and included pre-petition arrearage in the amount of \$6,000.00 to be paid through  
8 Debtors' Chapter 13 plan.

9 4. Debtors are currently waiting on a loan modification plan to be approved.

10 5. Debtors believe that when the loan modification is approved, all arrears, including  
11 pre-petition arrears, will be included in the loan modification and they will be able to afford the  
12 lower mortgage payments every month. Debtors' intentions are to stay current on future mortgage  
13 payments.

**ARGUMENT**

14  
15 Creditor, BANK OF AMERICA, NATIONAL ASSOCIATION AS SUCCESSOR BY  
16 MERGER TO LASALLE NATIONAL ASSOCIATION, AS TRUSTEE FOR THE C-BASS  
17 MORTGAGE LOAN ASSET-BACKED CERTIFICATES, is alleging an arrearage of \$8,196.24,  
18 inclusive of attorney fees, in its Motion for Relief from Stay. Debtors acknowledge delinquency  
19 of their mortgage payments in the amount of \$8,321.24. However, it was at the suggestion of the  
20 Creditor that Debtors hold back on the mortgage payments until the loan modification and a re-  
21 evaluation of the Debtors' financial circumstances by the Creditor, BANK OF AMERICA,  
22 NATIONAL ASSOCIATION AS SUCCESSOR BY MERGER TO LASALLE NATIONAL  
23 ASSOCIATION, AS TRUSTEE FOR THE C-BASS MORTGAGE LOAN ASSET-BACKED  
24 CERTIFICATES, are completed. Debtors are expecting a permanent workout solution in order  
25 to bring their mortgage loan current, including adding all arrearage back into the new loan.  
26 Debtors cannot understand why the Creditor would tell them not to pay their mortgage payments  
27 to obtain a loan modification and then bring this motion before the Court.

28 ///



**CERTIFICATE OF MAILING**

On January 12, 2010, I served the following document(s)

Opposition to Motion for Relief from Automatic Stay

2. I served the above-named document(s) by the following means to the persons as listed below:

- x a. ECF System (You must attach the "Notice of Electronic Filing", or list all persons and addresses and attach additional paper if necessary.)

Trustee Rick Yarnall: [ecfmail@LasVegas13.com](mailto:ecfmail@LasVegas13.com)

- x b. United States mail, postage fully prepaid, addressed as follows:  
(List persons and addresses. Attach additional paper if necessary.)

Gregory L. Wilde, Esq.  
Wilde and Associates  
208 S. Jones Blvd.  
Las Vegas, NV 89107

Roy and Wendy Sunshine Brewer  
6516 Quantum Lane,  
Las Vegas, NV 89130

- o c. Personal Service (List persons and addresses. Attach additional paper if necessary)  
I personally delivered the document(s) to the persons at these addresses:

o For a party represented by an attorney, delivery was made by handing the document(s) to the attorney or by leaving the documents(s) at the attorney's office with a clerk or other person in charge, or if no one is in charge by leaving the documents(s) in a conspicuous place in the office.

o For a party, delivery was made by handing the document(s) to the party or by leaving the document(s) at the person's dwelling house or usual place of abode with someone of suitable age and discretion residing there.

- o d. By direct email (as opposed to through the ECF System)

(List persons and email addresses. Attach additional paper if necessary)

Based upon the written agreement of the parties to accept service by email or a court order, I caused the document(s) to be sent to the persons at the email addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

- o e. By fax transmission (List persons and fax numbers. Attach additional paper if necessary)

Based upon the written agreement of the parties to accept service by fax transmission or a court order, I faxed the document(s) to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission is attached.

- o f. By messenger (List persons and addresses. Attach additional paper if necessary)  
I served the document(s) by placing them in an envelope or package addressed to the persons at the addresses listed below and providing them to a messenger for service. (A declaration by the messenger must be attached to this Certificate of Service.)

1 I declare under penalty of perjury that the foregoing is true and correct.

2 Signed on January 12, 2010.

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4 \_\_\_\_\_

An employee of Aaron & Paternoster, Ltd